

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

IN THE MATTER OF: Trammell Crow	)	DOCKET NO. 98-03
So. Cal. Properties, Inc.,	)	
a Delaware Corporation	)	
	)	
UNDER THE AUTHORITY OF THE	)	AGREEMENT AND COVENANT
COMPREHENSIVE ENVIRONMENTAL	)	NOT TO SUE
RESPONSE, COMPENSATION, AND	)	
LIABILITY ACT OF 1980, 42 U.S.C.	)	
§ 9601, <u>et seq.</u> , as amended.	)	

I. Introduction

1. This Agreement and Covenant Not to Sue (the "Agreement") is made and entered into by and between the United States Environmental Protection Agency ("EPA") and Trammell Crow So. Cal. Properties, Inc., a Delaware Corporation ("Trammell Crow" or "Settling Respondent"). EPA and Settling Respondent are collectively referred to herein as the "Parties".

2. This Agreement is entered into pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9601, et seq., and the authority of the Attorney General of the United States to compromise and settle claims of the United States.

3. Settling Respondent is a Delaware corporation with principal offices at 5801 South Eastern Avenue, Suite 100, Los Angeles, California 90040. Settling Respondent desires to enter into an agreement with Benchmark Technology, Inc. and Benchmark Holding Group (collectively "Benchmark") which, subject to certain terms and conditions, provides for the purchase by Settling Respondent of the property located at 200 South Turnbull Canyon Road, in the City of Industry, California, Tax Assessor Numbers 8208-023-022 and 8208-023-036 (the "Property").

4. The Property consists of approximately 8.93 acres of land and is within the area encompassed by the Puente Valley Operable Unit of the San Gabriel Valley Superfund Sites, Areas 1-4. The San Gabriel Valley Superfund Sites were listed on the National Priorities List in 1984 due to the presence of extensive groundwater contamination.

5. The Property has not been used for commercial purposes for several years. Settling Respondent intends to develop a light industrial and commercial facility on the Property, thereby returning the Property to productive use. Settling Respondent does not wish to incur or subject itself to the environmental liabilities that may be associated with Existing Contamination (if any), or the threat thereof, existing on or proximate to the Property as of the date of purchase.

6. The Parties agree to undertake all actions required by the terms and conditions of this Agreement. The purpose of this Agreement is to settle and resolve, subject to reservations and limitations contained in Sections VII, VIII, IX, and X, the potential liability of Settling Respondent for the Existing Contamination at the Property which may otherwise result from Settling Respondent becoming an owner of the Property.

7. The Parties agree that Settling Respondent's entry into this Agreement, and the actions undertaken by Settling Respondent in accordance with this Agreement, do not constitute an admission of any liability by Settling Respondent.

8. The resolution of this potential liability, in exchange for provision by Settling Respondent to EPA of a substantial benefit, is in the public interest.

## II. Definitions

Unless otherwise expressly provided herein, terms used in this Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations, including any amendments thereto.

9. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

10. "Existing Contamination" shall mean:

a. any hazardous substances, pollutants or contaminants, present or existing on or under the Property as of the effective date of this Agreement and for which Settling Respondent is not presently liable in any way;

b. any hazardous substances, pollutants or contaminants that migrated from the Property prior to the effective date of this Agreement; provided that Settling Respondent is not presently liable in any way for such migrated hazardous substances, pollutants or contaminants; and

c. any hazardous substances, pollutants or contaminants presently at the Site that migrate onto, under or from the Property after the effective date of this Agreement; provided that Settling Respondent is not presently liable in any way for such hazardous substances, pollutants or contaminants and does not cause or contribute to the migration of such hazardous substances, pollutants or contaminants onto, under, or from the Property.

11. "Parties" shall mean EPA and the Settling Respondent.

12. "Property" shall mean the real property commonly referred to as 200 South Turnbull Canyon Road in the City of Industry, California, including existing improvements. The Property is more particularly described in Exhibit 1 to this Agreement.

13. "Settling Respondent" shall mean Trammell Crow So. Cal. Properties, Inc., a Delaware Corporation.

14. "Site" shall mean the San Gabriel Valley Superfund Sites, Areas 1-4, encompassing approximately thirty (30) square miles, located in the San Gabriel Valley of California, and including the El Monte, South El Monte and Whittier Narrows areas, the Azusa/Irwindale/Baldwin Park area, the City of Alhambra and the La Puente/City of Industry area, which Site is depicted generally on the map attached as Exhibit 2. The Site shall include the Property, and all areas where hazardous substances and/or pollutants or contaminants, have come to be located.

15. "United States" shall mean the United States of America, its departments, agencies, and instrumentalities.

### III. Statement of Facts

16. The Property is located within an area which is primarily industrial and commercial in nature and is established and developed. The Property has not been used for commercial purposes for the past several years.

17. The environmental condition of the soils and groundwater underlying the Property has been the subject of numerous investigations by Benchmark, TRW Inc. and other entities. Many, if not all, of these investigations were conducted for, and the information produced was shared with, EPA and/or the California Regional Water Quality Control Board - Los Angeles Region.

18. Settling Respondent is not, and has never been, named as a potentially responsible party at the Site.

19. Settling Respondent has informed EPA that:

a. Settling Respondent is purchasing the Property from Benchmark and intends to develop a commercial and light industrial facility for lease or sale to other parties.

b. Settling Respondent's use of the Property is expected to create jobs and increased tax revenues for the local community.

20. Settling Respondent represents, and for the purposes of this Agreement, EPA relies on those representations, that Settling Respondent's involvement with the Property has been limited to inspecting, auditing and performing environmental and other due diligence of the Property in connection with Settling Respondent's purchase of the Property.

### IV. Payment

21. In consideration of and in exchange for the United States' Covenant Not to Sue in Section VIII herein, Settling Respondent agrees to pay to EPA the sum of one hundred and fifty thousand dollars (\$150,000), within 30 days of the date that this Agreement

becomes final. This Agreement shall be considered final if and when, after the close of the public comment period specified in paragraph 53, EPA notifies Settling Respondent in writing that EPA has not withdrawn or modified its consent to the Agreement. Settling Respondent shall make the payment required by this Agreement in the form of a certified check made payable to "U.S. EPA Hazardous Substance Superfund," referencing EPA Region IX, EPA Docket Number 98-03, EPA Site Number 098V, DOJ case number 90-11-2-1251, and name and address of Settling Respondent. Payment shall be sent to:

U.S. EPA  
Region IX, Attn: Superfund Accounting  
P.O. Box 360863M  
Pittsburgh, PA 15251

Notice of payment (including a copy of the check and transmittal letter) shall be sent to those persons listed in Section XV (Notices and Submissions), and to:

Catherine Shen  
Financial Management Specialist (PMD-6)  
U.S. EPA Region IX  
75 Hawthorne Street  
San-Francisco, California 94105

J. Michael Rockett  
U.S. Department of Justice  
301 Howard Street, Suite 870  
San Francisco, CA 94105

22. Amounts due and owing pursuant to the terms of this Agreement but not paid in accordance with the terms of this Agreement shall accrue interest at the rate established pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), compounded on an annual basis.

#### **V. Access/Notice to Successors in Interest**

23. Commencing upon the date that it acquires title to the Property, Settling Respondent agrees to provide to EPA and the State of California, the authorized officers, employees, representatives of each, and all other persons performing response actions at the Site under EPA or State oversight, an irrevocable right of access at all reasonable times to the Property for the purposes of performing and overseeing response actions at the Site or the Property under federal and state law. EPA agrees to provide reasonable notice to the Settling Respondent of the timing of response actions to be undertaken at the Property. Notwithstanding any provision of this Agreement, EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6901, ("RCRA") et seq., and any other applicable statute or regulation, including any amendments thereto.

24. Within thirty (30) days after the date that this Agreement becomes final, the Settling Respondent shall record a certified copy of this Agreement with the recorder's office or registry of deeds for Los Angeles County, State of California. Thereafter, each deed, title, or other instrument conveying an interest in the Property shall contain a notice stating that the Property is subject to this Agreement. A copy of these documents should be sent to the persons listed in Section XV (Notices and Submissions).

25. Settling Respondent shall take all reasonable steps to ensure that assignees, successors in interest, lessees, and sublessees of the Property from Settling Respondent shall provide the same access and cooperation that is required by this Agreement. Settling Respondent shall expressly require all such persons to abide by the access and cooperation terms hereof in any subsequent lease, assignment or other conveyance by Settling Respondent. Settling Respondent shall ensure that a copy of this Agreement is provided to any current lessee or sublessee on the Property as of the effective date of this Agreement and shall ensure that any subsequent leases, subleases, assignments or transfers of the Property or an interest in the Property by Settling Respondent are consistent with this Section, and Section XI (Parties Bound/Transfer of Covenant), of this Agreement.

26. Provided Settling Respondent complies with the requirements of paragraphs 24 and 25 hereof, any failure of any assignee to comply with the access provisions hereof, which is beyond the control of Settling Respondent, shall not deprive Settling Respondent of the benefits of this Agreement.

#### **VI. Due Care/Cooperation**

27. Settling Respondent shall exercise due care at the Site with respect to the Existing Contamination and shall comply with all applicable local, State, and federal laws and regulations. Settling Respondent recognizes that the implementation of response actions at the Site or the Property may interfere with Settling Respondent's use of the Property. Settling Respondent agrees to cooperate fully with EPA and the State of California in the implementation of response actions at the Site or the Property and further agrees not to interfere with such response actions. EPA agrees, consistent with its responsibilities under applicable law, to use reasonable efforts to minimize any interference with Settling Respondent's and its lessees' operations by such entry and response. In the event while in possession of the Property, Settling Respondent becomes aware of any action or occurrence which causes or threatens a release of hazardous substances, pollutants or contaminants at or from the Property that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Settling Respondent shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release, and shall, in addition to complying with any applicable notification requirements under Section 103 of CERCLA, 42 U.S.C. § 9603, or any other law, immediately notify EPA of such release or threatened release.

## VII. Certification

28. By entering into this Agreement, Settling Respondent certifies that to the best of its knowledge and belief Settling Respondent has fully and accurately disclosed to EPA and the State of California all information known to Settling Respondent and all information in the possession or control of Settling Respondent's officers, directors, employees, contractors and agents which relates in any material way to any Existing Contamination or any past or potential future release of hazardous substances, pollutants or contaminants at or from the Property and to its qualification for this Agreement. Settling Respondent also certifies that, to the best of its knowledge and belief, it has not caused or contributed to a release or threat of release of hazardous substances or pollutants or contaminants at the Property. If the United States determines that information provided by Settling Respondent is not materially accurate and complete, this Agreement, within the sole reasonable discretion of the United States, shall be null and void and the United States reserves all rights it may have.

## VIII. United States' Covenant Not to Sue

29. Subject to the Reservation of Rights in Section IX of this Agreement and subject to payment of the amount specified in Section IV (Payment) of this Agreement, the United States covenants not to sue or take any other civil or administrative action against Settling Respondent, for any and all civil liability for injunctive relief or reimbursement of response or other costs, pursuant to Sections 106 or 107(a) of CERCLA, 42 U.S.C. §§ 9606 or 9607(a) and Section 7003 of the Solid Waste Disposal Act, as amended, 42 U.S.C. § 6973 ("RCRA") with respect to the Existing Contamination.

## IX. Reservation of Rights

30. The covenant not to sue set forth in Section VIII above does not pertain to any matters other than those expressly specified in Section VIII (United States' Covenant Not to Sue). The United States reserves and this Agreement is without prejudice to all rights against Settling Respondent with respect to all other matters, including but not limited to, the following:

a. claims based on a failure by Settling Respondent to meet a requirement of this Agreement, including but not limited to Section IV (Payment), Section V (Access/Notice to Successors in Interest), Section VI (Due Care/Cooperation), and Section XIV (Payment of Costs);

b. any liability resulting from past or future releases of hazardous substances, pollutants or contaminants, at or from the Property to the extent caused or contributed to by Settling Respondent, its successors, assignees, lessees or sublessees;

c. any liability resulting from exacerbation by Settling Respondent, its successors, assignees, lessees or sublessees, of Existing Contamination;

d. any liability resulting from the release or threat of release of hazardous substances, pollutants or contaminants, at the Site not within the definition of Existing Contamination;

e. any liability resulting from the release or threat of release of hazardous substances, pollutants or contaminants, at the Property after the effective date of this Agreement, not within the definition of Existing Contamination;

f. criminal liability;

g. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessment incurred by federal agencies other than EPA; and

h. liability for violations by Settling Respondent of any other local, State or federal law or regulations.

31. With respect to any claim or cause of action asserted by the United States (other than with respect to Existing Contamination), Settling Respondent shall bear the burden of proving that the claim or cause of action, or any part thereof, is attributable solely to Existing Contamination.

32. Nothing in this Agreement is intended as a release or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the United States may have against any person, firm, corporation or other entity not a party to this Agreement.

33. Nothing in this Agreement is intended to limit the right of EPA or the State of California to undertake future response actions at the Site or the Property or to seek to compel parties other than the Settling Respondent (or its directors, officers, employees and agents) to perform or pay for response actions at the Site or the Property. Nothing in this Agreement shall in any way restrict or limit the nature or scope of response actions which may be taken or be required by EPA or the State of California in exercising their authorities. Settling Respondent acknowledges that it is purchasing property where response actions may be required.

#### **X. Settling Respondent's Covenant Not To Sue**

34. In consideration of the United States' Covenant Not To Sue in Section VIII of this Agreement, Settling Respondent hereby covenants not to sue and not to assert any claims or causes of action against the United States, its authorized officers, employees, or representatives with respect to the Site or this Agreement, including but not limited to, any direct or indirect claims for reimbursement from the Hazardous Substance Superfund established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507, through CERCLA Sections 106(b)(2), 111, 112, 113, or any other provision of law, any claim against the United States, including any department, agency or instrumentality of the United States under

CERCLA Sections 107 or 113 related to the Property or the Site, or any claims arising out of response activities at the Property or the Site, including claims based on EPA's oversight of such activities or approval of plans for such activities.

35. Settling Respondent reserves, and this Agreement is without prejudice to, actions against the United States based on negligent actions taken directly by the United States, not including oversight or approval of plans or activities at the Property or the Site, that are brought pursuant to any statute other than CERCLA or RCRA and for which the waiver of sovereign immunity is found in a statute other than CERCLA or RCRA. Nothing herein shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

#### **XI. Parties Bound/Transfer of Covenant**

36. This Agreement shall apply to and be binding upon the United States and shall apply to and be binding on the Settling Respondent, its officers, directors, employees, and agents. Each signatory of a Party to this Agreement represents that he or she is fully authorized to enter into the terms and conditions of this Agreement and to legally bind such Party.

37. No transferee of all or a portion of the Property shall have any right under this Agreement (except to the extent that paragraph 39 applies), including any right under Section VIII (United States' Covenant Not to Sue) or Section XVIII (Contribution Protection), unless:

(a) at least thirty (30) days before the transfer, the transferee shall have submitted to EPA an affidavit which identifies the transferee and the property to be transferred, describes the proposed transfer, and certifies that:

(1) the transferee has not caused or contributed to the release or threat of release of any amount of the Existing Contamination;

(2) the transferee's use of the Property will not result in a release or threat of release of any hazardous substance;

(3) the transferee's use of the Property will not cause or contribute to the migration or release of any Existing Contamination or any threat to human health or the environment caused by any such release or threat of release; and

(4) the person signing the affidavit is fully authorized to make the foregoing certifications and to legally bind the transferee;

(b) EPA has consented in writing to the transfer of the rights, benefits and obligations conferred under the Agreement



to the person taking possession of all or a portion of the Property. EPA will provide Settling Respondent with its determination within thirty (30) days of receipt of Settling Respondent's affidavit. Any failure by EPA to render a decision within thirty (30) days shall be construed as a denial; and

(c) Prior to or simultaneous with the transfer of all or a portion of the Property, the transferee shall consent in writing to be bound by and perform, from the date of transfer, all of the terms and obligations of the Agreement as though it were Settling Respondent. These terms and obligations include, but are not limited to, those set forth in paragraphs 23, 24, 25, 26, (Access/Notice to Successors in Interest), 27 (Due Care/Cooperation), 28, 29, 30, 31 (Reservation of Rights), 34 (Settling Respondent's Covenant Not to Sue), 39, 40 (Transfer of Covenant), 41 (Disclaimer), 42 (Document Retention), 43 (Payment of Costs), 44 (Notices), 48 and 49 (Notice of Contribution Suits) of this Agreement.

If at any time, EPA determines that the transferee's affidavit is not materially accurate or complete, the Covenant Not to Sue and Contribution Protection shall be null and void with respect to the transferee, and the United States reserves all rights it may have against the transferee.

38. If all conditions of paragraph 37 have been met, upon transfer of ownership of the Property:

(a) Settling Respondent shall be released from the obligations set forth in paragraphs 23 and 25 (except for the first sentence of paragraph 25) (Access/Notice to Successors in Interest) of this Agreement; and

(b) EPA shall be released from its obligations to Settling Respondent (but not to transferee) under paragraph 23 of this Agreement.

This provision does not apply to any lease of the Property. Settling Respondent shall not be released from any other obligations set forth in this Agreement, except as EPA and Settling Respondent agree otherwise and modify this Agreement in writing.

39. Any lessee or sublessee (collectively "lessee") on the Property may obtain the rights and benefits established by this Agreement, including any right under Section VIII (United States' Covenant Not to Sue) or Section XVIII (Contribution Protection), by providing to EPA, prior to the date of tenancy, the written certification set forth in Exhibit 3. However, if at any time EPA determines that the lessee's certification is not materially accurate or complete, the Covenant Not to Sue and Contribution Protection shall be null and void with respect to the lessee, and the United States reserves all rights it may have against the lessee. Any lessee that is unable to provide the written

certification set forth in Exhibit 3 may obtain the rights and benefits of this Agreement only by complying with the transfer requirements of paragraph 37. Whenever a lessee who has obtained the rights and benefits of this Agreement pursuant to this paragraph or paragraph 37 vacates the Property, Settling Respondent shall provide EPA written notice of the vacancy within thirty (30) days of the date upon which the lessee vacates.

40. Settling Respondent agrees to pay the reasonable costs, including attorneys' fees, incurred by EPA and the State of California to review any subsequent requests for consent to assign or transfer the rights, benefits and obligations hereunder.

#### **XII. Disclaimer**

41. This Agreement in no way constitutes a finding by EPA or the State of California as to the risks to human health and the environment which may be posed by hazardous substances, contaminants or pollutants at the Property or the Site nor does it constitute any representation by EPA or the State of California that the Property or the Site is fit for any particular purpose.

#### **XIII. Document Retention**

42. Settling Respondent agrees to retain and make available to EPA and the State of California all business and operating records, contracts, site studies and investigations and documents relating to the presence, use, handling, storage, or disposal of hazardous substances, pollutants, or contaminants at the Property for at least ten years following the effective date of this Agreement, unless otherwise agreed to in writing by the Parties. At the end of ten years, the Settling Respondent shall notify EPA of the location of such documents and shall provide EPA with an opportunity to copy any documents at the expense of EPA.

#### **XIV. Payment of Costs**

43. If Settling Respondent fails to comply with the terms of this Agreement, including, but not limited to, the provisions of Section IV (Payment) of this Agreement, Settling Respondent shall be liable for all reasonable litigation and other enforcement costs incurred by the United States to enforce this Agreement or otherwise obtain compliance.

#### **XV. Notices and Submissions**

44. All notices to Settling Respondent should be sent to:

Thomas A. Bak  
Managing Director  
Trammell Crow Company  
5801 South Eastern Avenue, Suite 100  
Los Angeles, California 90040

with a copy to:

Stephen C. Jones, Esq.  
Jones, Day, Reavis & Pogue  
1450 G Street NW  
Washington D.C. 20005-2088

All notices to the United States should be sent to:

Brett P. Moffatt  
Assistant Regional Counsel (ORC-3)  
U.S. EPA  
75 Hawthorne Street  
San Francisco, California 94105

with a copy to:

Eugenia Chow  
Superfund Project Manager (SFD-7-3)  
U.S. EPA  
75 Hawthorne Street  
San Francisco, California 94105

#### **XVI. Effective Date**

45. Settling Respondent plans to take possession or control of the Property, at its own risk, before EPA completes its review of the public comments pursuant to paragraph 53 of this Agreement, and possibly before the Regional Administrator and the Assistant Attorney General consent to and execute this Agreement. If the Regional Administrator and the Assistant Attorney General execute this Agreement and EPA does not withdraw or modify its consent to this Agreement after reviewing public comments, then the effective date of this Agreement shall be the date upon which Settling Respondent took possession or control of the Property. If the Regional Administrator or the Assistant Attorney General does not execute this Agreement, or if EPA withdraws or modifies its consent to this Agreement after reviewing public comments, then there is no Agreement and no effective date.

#### **XVII. Termination**

46. If any Party believes that any or all of the obligations under Section V (Access/Notice to Successors in Interest) are no longer necessary to ensure compliance with the requirements of this Agreement, that Party may request in writing that the other Party agree to terminate the provision(s) establishing such obligations; provided, however, that the provision(s) in question shall continue in force unless and until the Party requesting such termination receives written agreement from the other Party to terminate such provision(s). Such termination by agreement shall not terminate the other provisions of this Agreement, except as the Parties may otherwise expressly agree.

### **XVIII. Contribution Protection**

47. With regard to claims for contribution against Settling Respondent, the Parties hereto agree that Settling Respondent is entitled to protection from contribution actions or claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2) for matters addressed in this Agreement. The matters addressed in this Agreement are all response actions taken or to be taken and response costs incurred or to be incurred by the United States or any other person for the Site with respect to the Existing Contamination.

48. Settling Respondent agrees that with respect to any suit or claim for contribution brought by Settling Respondent for matters related to this Agreement, it will notify the United States and State of California, in writing, no later than 60 days prior to the initiation of such suit or claim.

49. Settling Respondent also agrees that with respect to any suit or claim for contribution brought against it for matters related to this Agreement, it will notify, in writing, the United States and the State of California within 10 days of service of the complaint on them.

### **XIX. Exhibits**

50. Exhibit 1 shall mean the description of the real property which is the subject of this Agreement.

51. Exhibit 2 shall mean the map depicting the Site.

52. Exhibit 3 shall mean the form certification letter, "Lessee's Certification Of Compliance With Agreement And Covenant Not To Sue".

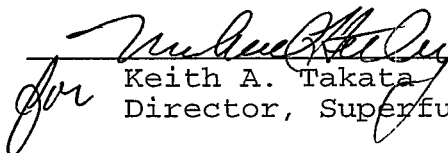
### **XX. Public Comment**

53. This Agreement shall be subject to a thirty-day public comment period, after which EPA may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations which indicate that this Agreement is inappropriate, improper or inadequate.

IT IS SO AGREED:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION IX

BY:

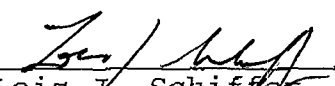
  
\_\_\_\_\_  
for Keith A. Takata  
Director, Superfund Division

2/25/98  
\_\_\_\_\_  
Date

IT IS SO AGREED:

U.S. DEPARTMENT OF JUSTICE

BY:

  
\_\_\_\_\_  
Lois J. Schiffer  
Assistant Attorney General  
Environment and Natural Resources Division

2/14/98  
Date

IT IS SO AGREED:

TRAMMELL CROW SO. CAL. PROPERTIES, INC.,  
a Delaware Corporation

BY:

  
\_\_\_\_\_  
Thomas A. Bak

1/13/98  
Date

## EXHIBIT 1

LEGAL DESCRIPTION

THAT CERTAIN IMPROVED REAL PROPERTY SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA. DESCRIBED AS FOLLOWS:

## PARCEL 1:

THE NORTHEASTERLY 400 FEET OF LOTS 5 AND 6 IN BLOCK 1 OF TRACT NO. 1343, IN THE CITY OF INDUSTRY, AS PER MAP RECORDED IN BOOK 20 PAGES 10 AND 11 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT ALL OIL AND MINERAL RIGHTS OF SAID LAND WITH THE RIGHT TO ENTER THEREON FOR THE PURPOSE OF EXTRACTING THE SAME, AS RESERVED BY CROSS LAND COMPANY, BY DEED RECORDED IN BOOK 6772 PAGE 151 OF DEEDS.

THE RIGHT OF SURFACE ENTRY ON OR TO A DEPTH OF 500 FEET BELOW THE NATURAL SURFACE OF SAID LAND AND ALL OIL AND MINERAL RIGHTS IN AND TO THAT PORTION OF SAID LAND LYING ABOVE A DEPTH OF 500 FEET BELOW THE NATURAL SURFACE HAS BEEN CONVEYED TO THE RECORD OWNERS OF SAID LAND BY AN AGREEMENT DATED MARCH 22, 1954 AND RECORDED APRIL 7, 1954 IN BOOK 44265 PAGE 238, OFFICIAL RECORDS.

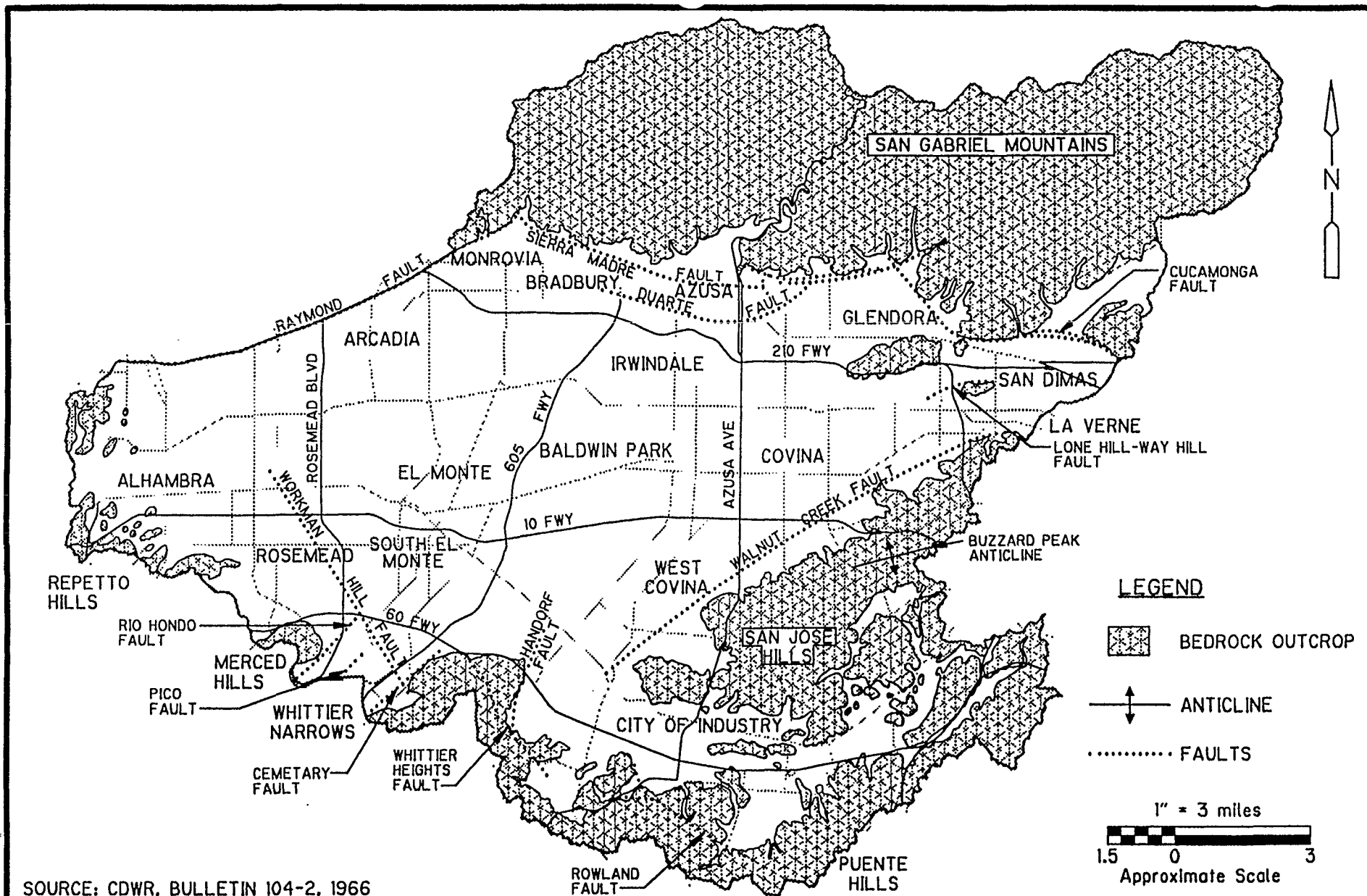
## PARCEL 2:

THE NORTHEASTERLY 400 FEET OF LOT 7 IN BLOCK 1 OF TRACT NO. 1343, IN THE CITY OF INDUSTRY, AS PER MAP RECORDED IN BOOK 20 PAGES 10 AND 11 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THE SOUTHEASTERLY 22.6 FEET THEREOF.

ALSO EXCEPT ALL OIL AND MINERAL RIGHTS OF SAID LAND WITH THE RIGHT TO ENTER THEREON FOR THE PURPOSE OF EXTRACTING THE SAME, AS RESERVED BY CROSS LAND COMPANY BY DEED RECORDED IN BOOK 6742 PAGE 238 OF DEEDS.

THE RIGHT OF SURFACE ENTRY ON OR TO A DEPTH OF 500 FEET BELOW THE NATURAL SURFACE OF SAID LAND AND ALL OIL AND MINERAL RIGHTS IN AND TO THAT PORTION OF SAID LAND LYING ABOVE A DEPTH OF 500 FEET BELOW THE NATURAL SURFACE HAS BEEN CONVEYED TO THE RECORD OWNERS OF SAID LAND BY AN AGREEMENT DATED MARCH 22, 1954 RECORDED APRIL 7, 1954 IN BOOK 44265 PAGE 238, OFFICIAL RECORDS.



PUENTE VALLEY OU INTERIM RI/FS

## SAN GABRIEL BASIN STRUCTURE MAP

**CDM**environmental engineers, scientists,  
planners, & management consultants

Exhibit 3

**LESSEE'S CERTIFICATION OF COMPLIANCE  
WITH AGREEMENT AND COVENANT NOT TO SUE**

CERTIFIED MAIL

Brett P. Moffatt  
Assistant Regional Counsel (ORC-3)  
U.S. EPA  
75 Hawthorne Street  
San Francisco, California 94105

Re: Lessee's Certification of Compliance with Agreement and  
Covenant Not to Sue, Docket No. 98-xx  
Puente Valley Operable Unit, San Gabriel Valley  
Superfund Sites

In accordance with paragraph 39 of the Agreement and  
Covenant Not to Sue, Docket No. 98-xx ("Agreement"), the  
undersigned party ("Lessee") hereby notifies the U.S.  
Environmental Protection Agency ("EPA") that it intends to lease  
all or a portion of the real property that is the subject of the  
Agreement. The Agreement was originally entered into by and  
between EPA and Trammell Crow Company and concerns the real  
property located at 200 South Turnbull Canyon Road in the City of  
Industry, California (the "Property").

[Insert a paragraph which identifies: (1) the parties to the  
lease; (2) a description of the portion of the property to be  
leased; and (3) the effective date and term of the lease.]

Lessee acknowledges that it has reviewed the Agreement and  
any modifications and notices thereto. Pursuant to paragraph 39  
of Section XI of the Agreement (Parties Bound/Transfer of  
Covenant), Lessee hereby agrees and certifies that:

(1) Lessee has not caused or contributed to the release or  
threat of release of any amount of the Existing  
Contamination;

(2) Lessee will not, over the course of any 12 month period,  
generate, use or store any hazardous substance or extremely  
hazardous substance, as defined in 42 U.S.C. §§ 9601(14),  
11002(a), in an amount equal to or exceeding its reportable  
quantity as established by 42 U.S.C. §§ 9602(a), 11002(a),  
at the Property;

(3) Lessee will not use the Property in any manner that  
could cause or contribute to the migration or release of any  
Existing Contamination;



(4) Lessee will permit access to the Property as set forth in paragraph 23 of the Agreement;

(5) Lessee will exercise due care at the Site and cooperate with EPA as set forth in paragraph 27 of the Agreement; and

(6) Lessee will not interfere with response actions taken on or around the Property;

(7) Lessee will be bound by and subject to the terms of the Agreement, and will act consistent with the terms of the Agreement.

Upon submission of this letter to EPA, Lessee shall have the rights and benefits set forth in Sections VIII (United States' Covenant Not to Sue) and XVII (Contribution Protection) of the Agreement with respect to the leased portion of the Property. However, if at any time EPA determines that Lessee's certification is materially inaccurate or incomplete, the Covenant Not to Sue and Contribution Protection shall be null and void with respect to Lessee, and the United States reserves all rights it may have against Lessee.

Notices and submissions required under the Agreement that affect Lessee's interest in the Property shall be sent to the following contact persons for Lessee:

[Insert Contact Information]

So Acknowledged and Agreed:

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Name and Title

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Name of Business

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Date